

TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

19374-503

U.S. APPLICATION NO. (IF KNOWN, SEE 37 CFR  
09/424,527INTERNATIONAL APPLICATION NO.  
PCT/US98/11347INTERNATIONAL FILING DATE  
03 June 1998PRIORITY DATE CLAIMED  
03 June 1997

## TITLE OF INVENTION

PROBIOTIC LACTIC ACID BACTERIUM TO TREAT BACTERIAL INFECTIONS ASSOCIATED WITH SIDS

## APPLICANT(S) FOR DO/EO/US

FARMER, Sean; MIKHAIL, Robert J.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1.  This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2.  This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3.  This is an express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4.  A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5.  A copy of the International Application as filed (35 U.S.C. 371 (c) (2))
  - a.  is transmitted herewith (required only if not transmitted by the International Bureau).
  - b.  has been transmitted by the International Bureau.
  - c.  is not required, as the application was filed in the United States Receiving Office (RO/US).
6.  A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7.  A copy of the International Search Report (PCT/ISA/210).
8.  Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3))
  - a.  are transmitted herewith (required only if not transmitted by the International Bureau).
  - b.  have been transmitted by the International Bureau.
  - c.  have not been made; however, the time limit for making such amendments has NOT expired.
  - d.  have not been made and will not be made.
9.  A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
10.  An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
11.  A copy of the International Preliminary Examination Report (PCT/IPEA/409).
12.  A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)).

## Items 13 to 20 below concern document(s) or information included:

13.  An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
14.  An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
15.  A **FIRST** preliminary amendment.
16.  A **SECOND** or **SUBSEQUENT** preliminary amendment.
17.  A substitute specification.
18.  A change of power of attorney and/or address letter.
19.  Certificate of Mailing by Express Mail
20.  Other items or information:

Petition Under 37 C.F.R. 1.47(a)-(b), Limited Recognition Under 37 CFR and check in the amount of \$130.00 for petition fee

Certificate of Express Mail No. EL390999524US Date of Deposit: 14 April 2000

04/18/2000 PWD/PE 00000116 09424527

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130.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Farmer, et al.  
ASSIGNEE: Ganeden BioTech, Inc.  
UNITED STATES SERIAL NUMBER: 09/424,527  
INTERNATIONAL APPLICATION NUMBER: PCT/US98/11347  
INTERNATIONAL FILING DATE: June 3, 1998  
FOR: PROBIOTIC LACTIC ACID BACTERIUM TO TREAT BACTERIAL INFECTIONS  
ASSOCIATED WITH SIDS

April , 2000  
Boston, Massachusetts

**Box PCT**  
Commissioner for Patents  
Washington, D.C. 20231

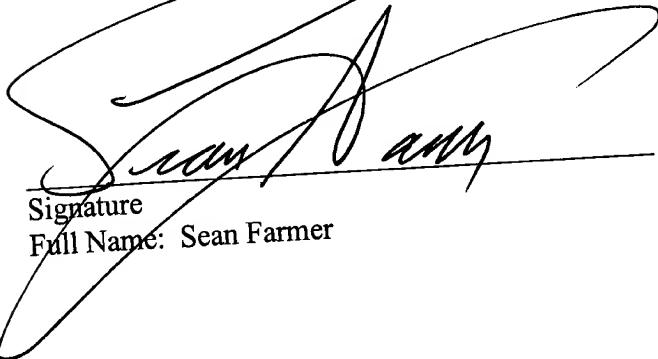
**PETITION UNDER 37 C.F.R. §1.47(a)-(b)**

I, Sean Farmer, an inventor of International Application No. PCT/US98/11347, U.S.S.N. 09/424,527, filed June 3, 1998, and entitled: "PROBIOTIC LACTIC ACID BACTERIUM TO TREAT BACTERIAL INFECTIONS ASSOCIATED WITH SIDS", am currently residing at 8938-6 Villa La Jolla Drive, La Jolla, California 92037.

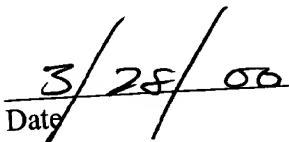
I, Sean Farmer, do hereby state that I have made a diligent attempt to contact, Robert J. Mikhail, a co-inventor of the above-referenced application, and whose last known address is 1493-B, East Lexington Avenue, El Cajon, California 92019. These attempts to contact Mr. Mikhail have been made via U.S. mail and electronic mail (e-mail) to his last known address.

Accordingly, I, Sean Farmer, do hereby petition the Commissioner to allow the above-referenced application to be filed, as set forth under 37 C.F.R. §1.47(a)-(b), with the enclosed Combined Declaration and Power of Attorney executed only by the undersigned.

I, Sean Farmer, do further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issued thereon.

  
Signature

Full Name: Sean Farmer

  
Date

TRADOC:1312283.1(S4KB01!.DOC)

**COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and sole inventor of the subject matter (an original, first and joint inventor) which is claimed and for which a utility patent is sought on the invention entitled:

## **PROBIOTIC LACTIC ACID BACTERIUM TO TREAT BACTERIAL INFECTIONS ASSOCIATED WITH SIDS**

the specification of which:

was filed on June 3, 1998, as United States non-provisional application U.S.S.N. 09/424,527, bearing Attorney Docket No. 19374-503 (GND-3).

is attached hereto.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT International application designating at least one country other than the United States listed below and have also identified below any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

I hereby claim the benefit under Title 35, United States Code, § 119(e) or §120 of any United States application(s), or §365(c) of any PCT International application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

<b>Application No. (U.S.S.N.)</b>	<b>Filing Date (dd/mm/yy)</b>	<b>Status (Patented, Pending, Abandoned)</b>
60/048,452	June 3, 1997	Abandoned

PCT International Applications designating the United States:

<b>PCT Appln No.</b>	<b>US Serial No.</b>	<b>PCT Filing Date</b>	<b>Status</b>
PCT/US98/11347	09/424,527	June 3, 1998	Pending

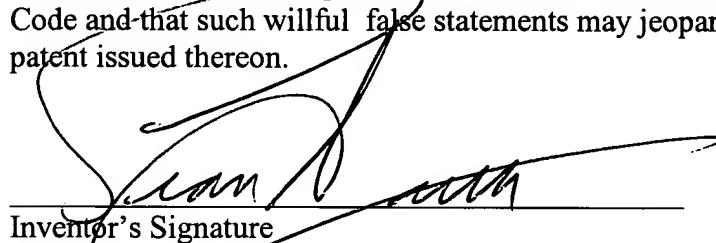
I hereby appoint the following attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

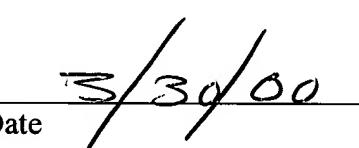
<b>Attorney or Agent</b>	<b>Registration No.</b>	<b>Attorney or Agent</b>	<b>Registration No.</b>
David B. Bernstein	32,112	William A. Marino	44,219
David F. Crosby	36,400	Barry J. Marenberg	40,715
James Gregory Cullem	43,569	Leslie Meyer-Leon	37,381
Brett N. Dorn	35,860	A. Jason Mirabito	28,161
Marianne Downing	42,870	Michel Morency	Limited Recognition
Ivor R. Elrifi	39,529	John T. Prince	43,091
Heidi A. Erlacher	P-45,409	Mike Renaud	44,299
John A. Harre	37,345	Brian Rosenbloom	41,276
Shane Hunter	41,858	Carol H. Peters	45,010
David E. Johnson	41,874	Thomas M. Sullivan	39,392
Christina Karnakis	P-45,899	Howard Susser	33,556
Robert Klauszinski	42,742	Shelby J. Walker	45,192
Kristin E. Konzak	44,848	Martin M. Zoltick	35,745
Cynthia Kozakiewicz	42,764		

Address all telephone calls to **Ivor R. Elrifi** at telephone number 617/348-1747. Address all correspondence to:

**Ivor R. Elrifi**  
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.  
One Financial Center  
Boston, Massachusetts 02111

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or patent issued thereon.

  
Inventor's Signature

  
Date

Full Name of Inventor: Sean Farmer

Citizenship: United States

Residence: 8938-6 Villa La Jolla Drive, La Jolla, CA 92037

Post Office Address: SAME